

REMARKS

In response to the final Office Action mailed October 6, 2003 the present application has been carefully reviewed and amended. Entry of the amendment and reconsideration of the application are respectfully requested.

Rejections under 35 USC §103***Claims 1-3 and 10***

Claims 1-3 and 10 stand rejected under 35 U.S.C. §103 as being unpatentable over Allison (U.S. Patent 5,180,439).

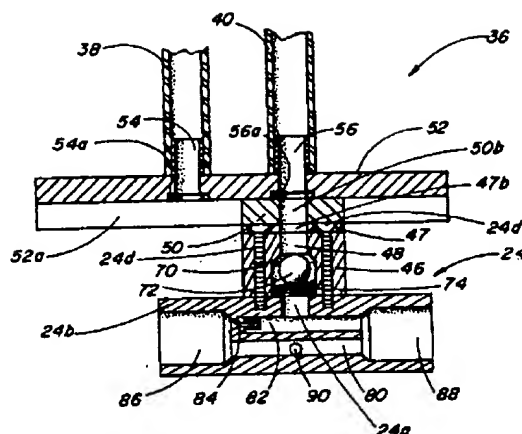
The Examiner asserts Allison discloses a container including an outlet valve, and a sprayer comprising a venturi 84 and a plunger 72, which "is considered to be a plunger since it moves back and forth to induce or cut-off fluid from supply line 38 due to venturi effect." [Paper 8, p. 2]

Independent Claim 1 recites in part:

- (a) a container;
- (b) an outlet valve connected to the container ... ;
- (c) a sprayer assembly connected to the container, the sprayer assembly including a venturi; and
- (d) a plunger fluidly connected to the venturi and movable between a closed position and an activating position in response to a flow through the venturi.

Applicant respectfully submits Allison does not disclose or suggest each of the recited limitations. Specifically, Allison does not disclose the container having an outlet valve *and* a plunger fluidly connected to the venturi.

The Examiner has construed the valve 36 of Allison (formed by ball 72) as both the outlet valve of the container and the recited plunger. The valve (flow terminating structure) in Allison is the ball 72.



Applicant respectfully submits the ball 72 of Allison cannot be *both* the recited plunger and the outlet valve of Claim 1.

Further, the Examiner stated prior Claim 1 did not specifically recite an outlet valve and a plunger fluidly connected to the venturi, as the Claim was directed to "an improved sprayer". [Paper 8, page 4-5]. As amended, Claim 1 now specifically recites an outlet valve and a plunger fluidly connected to the venturi.

As Allison does not disclose or suggest each of these limitations, Allison cannot sustain a rejection under 35 U.S.C. §103 of Claim 1. As Claims 2 and 3 depend from Claim 1 and include all the limitations thereof, these claims are also in condition for allowance.

Claim 10

Independent Claim 10 recites in part "A method of withdrawing liquid from a container having an outlet valve, the method comprising: ... *contacting a plunger with the outlet valve*; (b) passing a fluid through a venturi to create a localized low pressure zone and a localized high pressure zone; and (c) exposing the plunger to the low pressure zone or the high pressure zone to *move the plunger to an activating position for opening the outlet valve*." [emphasis added]

Allison cannot disclose "contacting a plunger with the outlet valve" and moving "the plunger to an activating position for opening the outlet valve." The ball 72 (plunger) of Allison cannot be both the recited plunger and the outlet valve. Therefore, applicant respectfully submits the rejection of Claim 10 has been overcome.

New Claim 13 depends from Claim 10 and includes all the limitations thereof, and is also in condition for allowance.

Claims 4 and 5.

Independent Claim 4 recites in part, "A sprayer assembly connectable to a container having an actuable outlet valve, comprising: ... an actuator *slideably connected relative to the venturi* and *moveable in response to a flow through the venturi* to actuate the outlet valve." [emphasis added]

The actuator is slideably connected relative to the venturi and movable in response to a flow through the venturi. In contrast, Allison employs a ball 72 which is biased by spring 74 against the ball seat 70 to form the check valve. Specifically,

spacer 47. Block 46 includes a central passageway 48 that includes a check valve incorporated therein. As seen in FIG. 2, the check valve is formed by a ball 72 40 that is biased by spring 74 against a ball seat 70. It is thus (Column 4)

Therefore, even if the ball 72 of Allison is construed as the recited plunger in Claim 4, there is no disclosure or suggestion in the cited reference of the plunger being slidably connected to the venturi ... to actuate the outlet valve.

Further, the ball 72 of Allison cannot be both the presently recited plunger and the recited outlet valve.

Therefore, applicant submits Claim 4 is in condition for allowance. As Claim 5 depends from Claim 4 and includes all the limitations thereof, Claim 5 is also believed in condition for allowance.

Claims 6 and 7

Independent Claim 6 recites in part, "A sprayer assembly for releasably engaging an additive source having an outlet valve, the assembly comprising: (a) a housing having a venturi, the housing configured to engage the additive source, the venturi having a positive pressure point and a reduced pressure point; and (b) an actuator sized to contact the outlet valve, moveably connected to the housing between an actuating position and a closed position, and *fluidly connected to the one of the positive pressure point and the reduced pressure point to be urged away from the venturi in response to a flow through the venturi.*" [emphasis added]

In Allison, the ball 72 moves *toward* the venturi in response to a flow through the venturi. This is directly contrary to the recited movement of the actuator in Claim 6. In addition, Allison does not disclose an outlet valve and a separate actuator.

As the examiner is aware, "most if not all inventions arise from a combination of all the elements. Thus, every element of a claimed invention may often be found in the prior art. However, identification in the prior art of each individual part claimed is insufficient to defeat patentability to a whole claimed invention . . . there must be some motivation, suggestion or teaching of the desirability of making the specific combination that was made by the applicant." *In re Kotzab*, 217 F.3d 1365, 55 U.S.P.Q. 2d 1313, 1316 [Fed. Cir. 2000]. The Court has stated that "our case law makes clear that the best defense against hindsight based obviousness analysis is the rigorous application of the requirement for showing of teaching or motivation to combine the prior references. Combining prior art references without evidence of such suggestion, teaching, or motivation simply takes the inventor's disclosure as a blueprint for piecing together the prior art to defeat patentability -- the essence of hindsight." *Ecolochem v. Southern California Edison Co.*, 56 U.S.P.Q. 2d, 1065, 1073 (Fed. Cir. 2000)

Therefore, applicant respectfully submits Claim 6 is in condition for allowance. As Claim 7 depends from Claim 6 and includes all the limitations thereof, Claim 7 is also believed in condition for allowance.

Claim 8

As amended independent Claim 8 recites in part, " A sprayer assembly for engaging an additive source having an outlet valve, comprising: ... and ... a plunger moveably connected to the housing between a first position proximal to the venturi and a second position spaced from the venturi in response to a flow through the venturi, the *plunger moving from the first position to the second position in response to a flow through the venturi.*" [emphasis added]

The ball 72 of Allison, moves toward the venturi in response to flow through the venturi. That is, the only direction in which the ball 72 of Allison can move to permit flow from the supply lines 38 and 40 to the venturi is towards the venturi. Thus, the recited limitation in Claim 8 is expressly contrary to Allison.

In addition, the ball 72 of Allison, which forms the check valve structure 36 (Col. 4, lines 33-44) cannot be both the recited outlet of the additive source and the plunger movable between a first position and a second position in response to flow through the venturi. The absence of at least these limitations and Allison providing the opposite structure as set forth in the claim precludes Allison from sustaining the rejection of the amended Claim 8.

Claim 9

Independent Claim 9 stands rejected under 35 U.S.C. §103 as being unpatentable over Gosselin (U.S. Patent 5,323,935).

The Examiner relies upon the embodiment of Figures 13 and 14 in combination with the check valve 389 of the embodiment of Figure 12. [Paper 8, p. 4]

The examiner has not provided any basis for the proposed modification of Gosselin. The absence of such basis precludes Gosselin from sustaining the asserted rejection.

In fact, Gosselin is contrary to the recited structure of Claim 9.

In the embodiment of Gosselin relied upon by the examiner:

The bottle 432 of this package 420 houses a liquid which is drawn into the pumping mechanism 454 through the dip tube 474. As the actuator 430 is reciprocated downwardly, the stem 464 and valve member 491 begin to move downwardly against the spring 493. Thus, the volume of the liquid pressure chamber 426 created by the upper portion of the pump body 438, the valve member 491 and the stem 464 begins to shrink. This causes the pressure within this liquid pressure chamber 426 to rise until the downward force created by this pressure on the valve member 491 exceeds the

(Col. 15, lines 57-69)

upward force on the valve member 491 due to the spring 493.

Referring to FIG. 14, this causes the valve member 491 to move away from the stem 464 creating a liquid passage 458 between these two parts and permitting the liquid to escape through the passage 458 in the stem 464. The liquid then enters the actuator 430 and passes through the venturi shaped mixing chamber 496. The venturi shaped mixing chamber 496 increases the velocity of the liquid such that the pressure of the liquid is decreased below atmospheric pressure, thereby sucking air into the liquid flow path through the injection orifices 490.

(Col. 16, lines 1-13)

With respect to the check valve 389,

Focussing first on the liquid flow passage 358, once primed, liquid is located in this passage 358 up to the capillary halting point, as discussed above. As the outer
30 actuator housing 386 is reciprocated downwardly, a reciprocating member 387 is also forced downwardly compressing the liquid in a liquid compression chamber 326 (i.e., the liquid pressure chamber) between itself and a ball check valve 389. A plunger 391 initially seals the
35 liquid flow passage 358 at the lower end of the reciprocating member 387. This plunger 391 is configured such that as the pressure in the liquid compression chamber 326 increases, the pressure forces the plunger 391 down against a spring 393. This spring 393 is designed to
40 maintain the plunger 391 in sealed relation against the reciprocating member 387 until a predetermined pressure is reached inside the liquid compression chamber 326. Once the predetermined pressure is reached, the plunger 391 moves away from the reciprocating mem-
45 ber 387 and the liquid passes on through the liquid passage 358.

(Col. 14)

Thus, an additional check valve 389 incorporated into the embodiment possessing the plunger 464 would be completely redundant. There is no need for such a structure in the embodiment of Figure 13.

The Examiner has not identified any portion of the reference which would suggest or support such modification. Therefore, the rejection of Claim 9 cannot be sustained.

Claims 11 and 12

As no rejection was made of Claims 11 and 12, applicant assumes these claims are deemed allowable.

Therefore, applicant respectfully submits all pending claims, Claims 1 – 13, are condition for allowance and such action is earnestly solicited. If, however, the Examiner feels any further issues remain, the examiner is cordially invited to call the undersigned so that such matters can be promptly resolved.

Respectfully submitted,



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